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GOVERNMENT OF TRIPURA
LAW DEPARTMENT
SECRETARIAT : AGARTALA

No.F.11 (2)- Law/Lib/2018/16839 **Dated, Agartala the 6th Dec, 2018.**

Subject : Re-publication of Central Acts & Amendments Act, 2018 in the State Gazette.

1. The Criminal Law (Amendment) Act 2018
(Act No. 22 of 2018)

06/12/18

Rahul Roy
Under Secretary, Law
Government of Tripura.

THE CRIMINAL LAW (AMENDMENT) ACT, 2018

AN
ACT

further to amend the Indian Penal Code, Indian Evidence Act, 1872, *the Code of Criminal Procedure,* 1973 *and the Protection of Children from Sexual Offences Act,* 2012.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Criminal Law (Amendment) Act, 2018.

(*2*) It shall be deemed to have come into force on the 21st day of April, 2018.

CHAPTER II

AMENDMENTS TO THE INDIAN PENAL CODE

Amendment of section 166A.

2. In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 166A, in clause (*c*), for the words, figures and letters "section 376B, section 376C, section 376D", the words, figures and letters "section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted. 45 of 1860.

Amendment of section 228A.

3. In section 228A of the Penal Code, in sub-section (*1*), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of section 376.

4. In section 376 of the Penal Code,—

(*a*) in sub-section (*1*), for the words "shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine", the words "shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine" shall be substituted;

(*b*) in sub-section (*2*), clause (*i*) shall be omitted;

(*c*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Whoever, commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim.".

Insertion of new section 376AB.

5. After section 376A of the Penal Code, the following section shall be inserted, namely:—

Punishment for rape on woman under twelve years of age.

"376AB. Whoever, commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine or with death:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.".

Insertion of new sections 376DA and 376DB.

6. After section 376D of the Penal Code, the following sections shall be inserted, namely:—

Punishment for gang rape on woman under sixteen years of age.

"376DA. Where a woman under sixteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

376DB. Where a woman under twelve years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life,which shall mean imprisonment for the remainder of that person's natural life, and with fine, or with death: Punishment for gang rape on woman under twelve years of age.

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.".

7. In section 376E of the Penal Code, for the word, figures and letter "section 376D", the words, figures and letters "section 376AB or section 376D or section 376DA or section 376DB," shall be substituted. Amendment of section 376E.

CHAPTER III

AMENDMENTS TO THE INDIAN EVIDENCE ACT, 1872

1 of 1872.

8. In section 53A of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted. Amendment of section 53A.

9. In section 146 of the Evidence Act, in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted. Amendment of section 146.

CHAPTER IV

AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973

2 of 1974.

10. In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 26, in clause (*a*), in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted. Amendment of section 26.

11. In section 154 of the Code of Criminal Procedure, in sub-section (*1*),— Amendment of section 154.

(*i*) in the first proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted;

(*ii*) in the second proviso, in clause (*a*), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted.

12. In section 161 of the Code of Criminal Procedure, in sub-section (*3*), in the second proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted. Amendment of section 161.

13. In section 164 of the Code of Criminal Procedure, in sub-section (*5A*), in clause (*a*), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted. Amendment of section 164.

Amendment of section 173.

14. In section 173 of the Code of Criminal Procedure,—

(*i*) in sub-section (*1A*), for the words "rape of a child may be completed within three months", the words, figures and letters "an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of the Indian Penal Code shall be completed within two months" shall be substituted; 45 of 1860.

(*ii*) in sub-section (*2*), in clause (*i*), in sub-clause (*h*), for the word, figures and letters "section 376, 376A, 376B, 376C, 376D", the word, figures and letters "sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.

Amendment of section 197.

15. In section 197 of the Code of Criminal Procedure, in sub-section (*1*), in the *Explanation*, for the words, figures and letters "section 376A, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of section 309.

16. In section 309 of the Code of Criminal Procedure, in sub-section (*1*), in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible,", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA or section 376DB of the Indian Penal Code, the inquiry or trial shall" shall be substituted. 45 of 1860.

Amendment of section 327.

17. In section 327 of the Code of Criminal Procedure, in sub-section (*2*), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of section 357B.

18. In section 357B of the Code of Criminal Procedure, for the words, figures and letters "under section 326A or section 376D of the Indian Penal Code", the words, figures and letters "under section 326A, section 376AB, section 376D, section 376DA and section 376DB of the Indian Penal Code" shall be substituted. 45 of 1860.

Amendment of section 357C.

19. In section 357C of the Code of Criminal Procedure, for the figures and letters "376A, 376B, 376C, 376D", the figures and letters "376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.

Amendment of section 374.

20. In section 374 of the Code of Criminal Procedure, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.". 45 of 1860.

Amendment of section 377.

21. In section 377 of the Code of Criminal Procedure, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.". 45 of 1860.

Amendment of section 438.

22. In section 438 of the Code of Criminal Procedure, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (*3*) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code.". 45 of 1860.

23. In section 439 of the Code of Criminal Procedure,— Amendment of section 439.

(*a*) in sub-section (*1*), after the first proviso, the following proviso shall be inserted, namely: —

"Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under sub-section (*3*) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.";

45 of 1860.

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (*3*) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code.".

45 of 1860.

24. In the First Schedule to the Code of Criminal Procedure, under the heading "I.— OFFENCES UNDER THE INDIAN PENAL CODE", — Amendment of First Schedule.

(*a*) for the entries relating to section 376, the following entries shall be substituted, namely:—

Section	Offence	Punishment	Cognizable or Non-cognizable	Bailable or Non-bailable	By what Court triable
1	2	3	4	5	6
"376	Rape.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Rape by a police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.

1	2	3	4	5	6
	Persons committing offence of rape on a woman under sixteen years of age.	Rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.";

(*b*) after the entries relating to section 376A, the following entries shall be inserted, namely:—

1	2	3.	4	5	6
"376AB	Person committing an offence of rape on a woman under twelve years of age.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session.";

(*c*) after the entries relating to section 376D, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"376DA	Gang rape on a woman under sixteen years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
376DB	Gang rape on woman under twelve years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session.".

CHAPTER V

AMENDMENT TO THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

Amendment of section 42 of Act No.32 of 2012.

25. In section 42 of the Protection of Children from Sexual Offences Act, 2012, for the figures and letters "376A, 376C, 376D", the figures and letters "376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.

Repeal and savings.

26. (*1*) The Criminal Law (Amendment) Ordinance, 2018 is hereby repealed. Ord. No.2 of 2018.

45 of 1860.
1 of 1872.
2 of 1974.
32 of 2012.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Indian Penal Code, the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.